IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Crl.Rev.Pet.No. 3091 of 2007()

CRA.972/2005 of III ADDL. SESSIONS COURT (ADHOC) I, THRISSUR
SC.29/2003 of ASSISTANT SESSIONS COURT, THRISSUR

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REVN. PETITIONER: PETITIONERS

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1. DINESAN, S/O VASUDEVAN,
   PATTATH HOUSE, KOZHUKULLY, PALLIMOOLA,
   THRISSUR DISTRICT.

2. UNNIMON, S/O KUMARAN,
   CHERINGOTTIL HOUSE,
   NADATHARA, POLOOKKARA DESOM,
   THRISSUR DISTRICT.

BY ADV. SRI.V.BINOY RAM

RESPONDENTS: RESPONDENT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. NO. 3091 of 2007

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Dated, this the 21st day of August 2007

ORDER

The revision petitioners who were accused Nos. 1 and 2 in S.C. 29 of 2003 on the file of the Principal Asst. Sessions Court, Thrissur for offences punishable under Sections 427 and 308 read with Sec. 34 I.P.C. challenge the conviction under Sec. 426 read with Sec. 34 I.P.C. and the sentence to simple imprisonment for three months and to pay a fine of Rs. 5,000/- and on default to pay the fine to suffer simple imprisonment for 15 days.

2. The case of the prosecution can be summarised as follows:-

The accused were the employees in Priyank bus bearing Reg. No. KL8/707 which was plying between Valakkavu to Thrissur. The accused did not relish P.Ws 1 and 3 who are the driver and conductor of Kailas bus bearing Reg. No. KL8/U.756 running in the same route with a new permit from 7-7-2000 onwards. On 15-7-2000 at about 6.15 p.m. when Kailas bus was running from Nalukettu to Thrissur, the accused blocked the said bus along the said route from Koottanadu to Moorkkanikara. Subsequently, when the Kailas bus was

being driven behind Priyank bus the accused abruptly stopped Priyank bus. Then with the intention of committing culpable homicide of P.Ws. 1 and 2 and the passengers of Kailas bus and causing loss to the the owner of Kailas bus A1 swiftly reversed Priyank bus resulting in Kailas bus ramming behind Priyank bus. Thereafter A1 beat P.Ws 1 and 3 with a jacki liver with the intention of causing death and A2 snatched the jacki liver and smashed the rear wind screen glass of Kailas bus thereby causing wrongful loss to the owner of the bus to the tune of Rs. 15,000/-

3. On the side of the prosecution, eight witnesses were examined as P.Ws 1 to 8 and five documents were marked as Exts.P1 to P5 and two material objects were marked as MOs 1 to 2.

4. The accused denied the incriminating circumstances put to them and maintained their innocence. They did not adduce any defence evidence.

5. The learned Asst. Sessions Judge, after trial, as per judgment dated 23-11-2005 acquitted accused Nos. 3 and 4 but convicted accused Nos. 1 and 2 (revision petitioners) for an offence punishable under Section 426 read with Sec. 34 I.P.C. and awarded the sentence referred to earlier. On appeal preferred by the revision petitioners as Crl. Appeal 972 of 2005 before the III Addl.

Sessions Judge, (Adhoc) Fast Track Court No. I, Thrissur the lower appellate Court dismissed the appeal confirming the conviction and sentence passed against the revision petitioners. Hence this Revision.

6. Eventhough the learned counsel appearing for the revision petitioners assailed the conviction entered and the sentence passed against them, since the conviction has been recorded after a careful evaluation of the oral and documentary evidence, this Court sitting in the rarefied revisional jurisdiction will be loathe to interfere with the conviction recorded against the revision petitioner. The evidence on record clearly shows that the revision petitioners were guilty of deliberately causing damage to Kailas Bus due to the said bus securing a new permit for plying in the very same route. The conviction is accordingly confirmed.

6. What now survives for consideration is the adequacy or otherwise of the sentence imposed on the revision petitioners. Having regard to the facts and circumstances of the case, I do not think that the petitioners deserve penal servitude by way of incarceration for the said conviction. Accordingly, the sentence imposed on the revision petitioners is set aside and each of them is directed to pay a sum of Rs. 10,000/- (Rupees ten thousand only) by way of compensation under Sec. 357 (3) Cr.P.C. besides undergoing imprisonment till the

rising of the court. The compensation shall be payable to the owner of Kailas Bus bearing Reg. No. KL8/U.756. Compensation shall be paid within one month from today failing which the defaulting accused shall undergo simple imprisonment for two months.

In the result this Revision is disposed of as above.

V. RAMKUMAR,
(JUDGE)

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